

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ROBERT AVERELL TOMPKINS,

Plaintiff,

v.

CASE NO: 11-CV-11972-DT

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

This matter is before the court on cross motions for summary judgment. The case was referred to United States Magistrate Judge R. Steven Whalen pursuant to 28 U.S.C. §636(b)(1)(B) and Local Rule 72.1. The magistrate judge issued his report on May 10, 2012 recommending that this court deny plaintiff's motion for summary judgment, and grant defendant's motion for summary judgment. No objections have been filed pursuant to 28 U.S.C. §636(b)(1)(C), thus further appeal rights are waived.¹

Having reviewed the file and the Report, the court concludes that the findings and conclusions of the Magistrate Judge are correct and ADOPTS the same for purposes of this Order.

¹ The failure to object to the magistrate judge's report releases the court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

ORDER

IT IS ORDERED that, for the reasons set forth in the Magistrate Judge's Report and Recommendation, the Plaintiff's motion for summary judgment is **DENIED** and defendant's motion for summary judgment is **GRANTED**.

IT IS SO ORDERED.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: June 5, 2012

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, June 5, 2012, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522